

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

KENNETH M. GREGORY,	)	
	)	
Plaintiff(s),	)	No. C09-1800 PJH (BZ)
v.	)	
	)	
CITY & COUNTY OF SAN	)	<b>THIRD DISCOVERY ORDER</b>
FRANCISCO,	)	
	)	
Defendant.	)	
_____	)	

Pro Se Plaintiff Kenneth Gregory ("Gregory") is an African American male who was employed as a Food Services worker at San Francisco General Hospital ("SFGH") from December 2006 until January 2007. Doc #1, Compl. ¶¶ 7 - 8. He filed a "pattern or practice" employment discrimination claim against the City and County of San Francisco ("defendant"). Id ¶ 14.

The discovery dispute before the Court involves interrogatories and document requests Gregory propounded on January 23, 2010. Doc #30 at 50. Gregory sent 23 interrogatories and 12 document production requests, id at 38 - 50, and defendant responded to each interrogatory and

1 request, id at 14 - 30. Gregory, not satisfied with  
2 defendant's responses, filed this motion to compel discovery  
3 on June 4, 2010. Having reviewed the papers, the Court finds  
4 no need for argument. For the reasons stated below, Gregory's  
5 motion is **GRANTED IN PART** and **DENIED IN PART**.

6 Gregory's moving papers state "[t]he information I would  
7 like are a list of names of all persons employed as a Food  
8 Service worker under Joey Reinares, Natalia Covacha and also  
9 Connie Yin, Food Service Director. All employee who were  
10 terminated from 01/01/2002 - 01/07/2007." Id at 4. Gregory's  
11 moving papers also refer to interrogatories 9, 10, 13, 14, 17,  
12 18, 20 and 21, but do not explain what Gregory finds  
13 objectionable about defendant's responses to these  
14 interrogatories. Id. Additionally, Gregory's moving papers  
15 state that defendant "mention[ed] to me that information  
16 regarding employees terminated and witnesses was sent to me  
17 October 2009. I have not received any of this information."  
18 Id. Finally, Gregory's moving papers state that defendant's  
19 response to the production requests "was not good enough," but  
20 do not identify any specific problems. Id at 5.

21 Pursuant to this Court's order, Doc #38, the parties met  
22 to resolve discovery issues on June 30, 2010. Doc #49 Exh. A.  
23 During the meeting, Gregory acknowledged receiving the initial  
24 disclosures defendant sent to him in October 2009. Recording  
25 of June 30, 2010 meet and confer. (Doc. #53). Additionally,  
26 Gregory stated that he wished to withdraw his complaints about  
27 interrogatories 9, 10, 17, 18, 20 and 21, leaving only  
28 interrogatories 13 and 14 outstanding. Id.

1 Interrogatory 13 reads as follows: "[i]dentify each person who  
2 has been employed by you as a salaried/hourly employee in San  
3 Francisco General Hospital during the period from December 7,  
4 2002 to the date of your response." Doc #30 at 20.

5 Interrogatory 13 also asks for each employee's name, race,  
6 employment position, date of hiring, date of termination and  
7 reasons for termination. Id. During the June 30 meet and  
8 confer, however, Gregory repeatedly stated that he did not  
9 need defendant to provide this information for all of SFGH's  
10 employees, but only for the African Americans working in Food  
11 Services who had been terminated from December 7, 2002 to  
12 January 2007. Recording of June 30, 2010 meet and confer.

13 In response to Gregory's request, defendant provided  
14 Gregory with a document specifying all African Americans  
15 terminated from SFGH's Food Services division from 2002 until  
16 the present. Doc #49 Exh. D at 2 - 3. This document also  
17 provides each employee's termination date, reasons for  
18 termination, job title and date of hire. Id. Gregory,  
19 however, was not satisfied with defendant's response, and in  
20 moving papers and a letter to defendant requested (1)  
21 information about the hiring and termination of SFGH Food  
22 Services employees of other ethnicities, and (2) information  
23 regarding the termination of African American employees  
24 between 2000 and 2002. Doc #52 at 4; doc #49 Exh. C at 1; doc  
25 #45 at 1. Additionally, Gregory asked defendant to specify a  
26 single termination reason for each employee, doc #52 at 2 - 3,  
27 and questioned the accuracy of the information defendant  
28 provided, doc #45 at 1.

1 Interrogatory 14 reads as follows: "Has the employment of  
2 any employee (other than plaintiff) been terminated as a  
3 result of a decision made by plaintiff's supervisors? If your  
4 answer is "yes," please identify each such employee, stating  
5 dates of hire and termination." Doc #30 at 45. During the  
6 June 30 meet and confer, Gregory clarified that he wanted a  
7 list of the African American employees "fired under" three  
8 supervisors: Joey Reinares, Natalia Covacha and Connie Yin.  
9 Recording of June 30, 2010 meet and confer. Gregory had  
10 mentioned in his initial moving papers that he wanted a list  
11 of all persons "employed as a Food Services worker under"  
12 these three people. Doc #30 at 4.

13 In response, at the June 30 meet and confer defendant  
14 stated that it could not produce a list of employees "fired  
15 under" these three supervisors because employees were not  
16 permanently assigned to work under specific supervisors.  
17 Recording of June 30, 2010 meet and confer. Instead,  
18 defendant explained that employees work under various  
19 supervisors and that an employee's supervisors changed often.  
20 Id. Accordingly, defendant stated that it did not understand  
21 what exactly Gregory wanted when he requested lists of  
22 employees "fired under" or "employed under" certain  
23 supervisors. Id. In papers filed after the June 30 meet and  
24 confer, the parties only very briefly discussed interrogatory  
25 14 or information relating to supervisors Joey Reinares,  
26 Natalia Covacha and Connie Yin.

27 At the June 30 meet and confer, Gregory requested two  
28 pieces of information:

1 (1) The hiring date, termination date, job title and  
2 reasons for termination for all African Americans  
3 terminated by SFGH Food Services from 2002 until the  
4 present.

5 (2) A list of African American employees "fired under"  
6 three supervisors: Joey Reinares, Natalia Covacha  
7 and Connie Yin.

8 Since Gregory has received the first piece of information from  
9 defendant, doc #49 Exh. D, to the extent that his motion  
10 requests this information it is **DENIED AS MOOT**.

11 Gregory has not received any information in response to  
12 his request for the second piece of information. Moreover,  
13 defendant has not made a showing that it would be an undue  
14 burden to produce a list of which terminated African American  
15 employees were supervised, at some point, by one of the three  
16 supervisors referred to by Gregory: Joey Reinares, Natalia  
17 Covacha and Connie Yin. Therefore, to this extent, Gregory's  
18 motion is **GRANTED**. Defendant is hereby **ORDERED** by August 30,  
19 2010 to respond to interrogatory 14 by (1) specifying which  
20 African American employees terminated during the specified  
21 period were supervised at some point by either Joey Reinares,  
22 Natalia Covacha or Connie Yim, and (2) identifying the  
23 supervisor or supervisors.

24 To the extent that Gregory's motion requests any  
25 additional information, Gregory's motion is **DENIED**. Gregory  
26 made several additional requests for information after the  
27 June 30 meet and confer, including requests for: (1)  
28 information regarding non-African Americans employed by SFGH

1 Food Services, (2) information about African Americans  
2 employees terminated from 2000 to 2002 and (3) information  
3 specifying a single termination reason for African American  
4 employees terminated between 2002 and the present. These  
5 additional requests were raised spontaneously, and  
6 substantially modified earlier requests with which defendant  
7 has complied. These additional requests are **DENIED** because  
8 Gregory cannot expect the Court to force defendant to comply  
9 with shifting, spontaneous information demands. To the extent  
10 Gregory wishes to reopen discovery, his request needs to be  
11 addressed to Judge Hamilton.

12 Finally, insofar as Gregory's motion questions the  
13 accuracy of information defendant produced in discovery, his  
14 motion is **DENIED**. A motion to compel discovery is not the  
15 proper method for certifying the accuracy of information  
16 received in discovery. This Order resolved Docket #30.

17 **IT IS SO ORDERED.**

18 Dated: August 13, 2010



Bernard Zimmerman  
United States Magistrate Judge

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